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THE SITUATION IN CENTRAL AMERICA:
THREATS TO INTERNATIONAL PEACE
AND SECURITY AND PEACE
INITIATIVES

SECURITY COUNCIL
Forty-sixth year

Letter dated 8 October 1991 from the Permanent Representative of El Salvador to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith a copy of the "Mexico Agreement" and the annexes thereto signed at Mexico City, Mexico, on 27 April 1991 by representatives of the Government of El Salvador and of the Frente Farabundo Martí para la Liberación Nacional (see annex).

I should be grateful if you would have this note and its annex distributed as an official document of the General Assembly, under agenda item 31, and of the Security Council.

(Signed) Ricardo G. CASTANEDA
Ambassador
Permanent Representative

ANNEX

MEXICO AGREEMENTS

The Government of El Salvador and the Frente Farabundo Martí para la Liberacíon Nacional (hereinafter referred to as "the Parties"),

Reaffirming their intention to make speedy progress towards the restoration of peace, national reconciliation and the reunification of Salvadorian society, in accordance with the common will of the Salvadorian people as expressed by both Parties in the Geneva Agreement of 4 April 1990;

Considering that the peace negotiations being conducted pursuant to the Geneva Agreement and to the Caracas Agenda of 21 May 1990 call for a number of constitutional reforms embodying the political agreements emanating therefrom;

Bearing in mind the urgent need to submit to the Legislative Assembly whose term expires on 30 April 1991 those constitutional reforms on which the Parties have reached agreement, even where such agreements are partial and do not deal with all aspects under the item as envisaged in the Caracas Agenda;

Considering that various points on which agreement has been reached can be put into practice through secondary legislation or through further political agreements elaborating on the Constitution;

Have reached the agreements summarized below, which comprise constitutional reforms and issues referred to secondary legislation, as well as other political agreements:

I. ARMED FORCES

1. Agreements on constitutional reforms aimed at:

(a) A clearer definition of the subordination of the armed forces to civilian authority.

(b) The creation of a National Civil Police for the maintenance of peace, tranquillity, order and public safety in both urban and rural areas, under the control of civilian authorities. It is expressly understood that the National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries.

(c) The creation of a State Intelligence Agency independent of the armed forces and under the direct authority of the President of the Republic.

(d) Redefinition of the system of military justice with a view to ensuring that only those cases which affect a strictly military legal interest are submitted to it.

2. Other issues considered in the negotiations were referred to secondary legislation or to the set of political agreements on the armed forces. These include:

(a) Paramilitary forces.

(b) Forcible recruitment.

(c) Aspects relating to the management of the security forces and State intelligence.

(d) Aspects relating to the personnel of the armed forces and the National Civil Police.

(e) The emphasis which must be given, in the professional training of members of the defence and public security forces, to the pre-eminence of human dignity and democratic values, to respect for human rights and to the subordination of such forces to the constitutional authorities.

The foregoing is without prejudice to the other outstanding issues under the item on the armed forces, with respect to which the Parties reaffirm that they stand ready, and hope, to reach overall agreements in the next phase of the negotiating process.

II. JUDICIAL SYSTEM AND HUMAN RIGHTS

1. Agreements on constitutional reforms designed to improve significant aspects of the judicial system and establish mechanisms for safeguarding human rights, such as:

(a) Reorganization of the Supreme Court of Justice and a new procedure for the election of Supreme Court judges. Henceforth, a two-thirds majority of deputies elected to the Legislative Assembly shall be required to elect judges to the Supreme Court of Justice.

(b) An annual allocation from the State budget to the judiciary amounting to no less than 6 per cent of current income.

(c) Creation of the post of a National Counsel for the Defence of Human Rights, whose primary function shall be to promote and ensure respect for human rights.

(d) Election of the Attorney-General of the Republic, the Chief State Counsel and the National Counsel for the Defence of Human Rights by a two-thirds majority of deputies elected to the Legislative Assembly.

2. Other issues raised in the negotiations were referred to secondary legislation and to other political agreements. Although the set of political

agreements on the judicial system envisaged by the Parties in the Caracas Agenda has still to be negotiated, the following agreements have been reached during the current round:

(a) National Council of the Judiciary

Agreement has been reached to restructure the National Council of the Judiciary so that its composition guarantees its independence from the organs of State and from political parties and its membership includes not only judges but also sectors of society not directly connected with the administration of justice.

(b) Judicial Training School

The National Council of the Judiciary shall be responsible for organizing and operating the Judicial Training School, whose purpose shall be to ensure a steady improvement in the professional training of judges and other judicial officials.

(c) Career judicial service

The secondary legislation shall contain provisions to ensure that admission to the career judicial service is based on mechanisms guaranteeing objective selection, equal opportunities for all candidates and the selection of the best-qualified candidates. Such mechanisms shall include competitive examinations and attendance at the Judicial Training School.

III. ELECTORAL SYSTEM

1. Agreements on constitutional reforms aimed at:

(a) The establishment of a Supreme Electoral Tribunal to replace the Central Board of Elections. The Supreme Electoral Tribunal shall be the highest administrative authority and jurisdiction with respect to electoral matters. It has been agreed that the composition of the Tribunal shall be determined by secondary legislation, making sure that no party or coalition of parties predominates it. It has also been agreed that the Supreme Electoral Tribunal shall include members without any party affiliation, elected by a qualified majority of the Legislative Assembly.

(b) It has also been agreed that legally registered political parties shall have the right to monitor the compilation, organization, publication and updating of the electoral roll.

2. Other issues raised in the negotiations were referred to secondary legislation and to other political agreements. Although the set of political agreements on the electoral system envisaged by the Parties in the Caracas Agenda has still to be negotiated, the following agreements have been reached during the current round:

(a) The electoral roll shall be compiled in such a way that the lists of citizens eligible to vote are published at least 20 days before the date of the election. A simple and expeditious procedure shall be established for making legitimate corrections requested by any interested party.

(b) Within 60 days after the establishment of the new Supreme Electoral Tribunal, a Special Commission presided over by the Tribunal and composed of representatives of all legally registered parties and, possibly, independent experts shall be established to prepare a comprehensive proposal for reform of the electoral system.

IV. COMMISSION ON THE TRUTH

Agreement has been reached to establish a Commission on the Truth, which shall be composed of three individuals appointed by the Secretary-General of the United Nations after consultation with the Parties. The Commission shall elect its Chairman. The Commission shall be entrusted with the task of investigating serious acts of violence that have occurred since 1980 and whose impact on society urgently requires that the public should know the truth. The Commission shall take into account:

(a) The exceptional importance that may be attached to the acts to be investigated, their characteristics and impact, and the social unrest to which they gave rise; and

(b) The need to create confidence in the positive changes which the peace process is promoting and to assist the transition to national reconciliation.

The characteristics, functions and powers of the Commission on the Truth and other related issues are set forth in the corresponding annex.

V. FINAL DECLARATION

The Parties state for the record that the foregoing is a summary of the main political agreements which they reached during the round of negotiations held at Mexico City between 4 April 1991 and today's date. This summary shall in no way detract from, distort or contradict the authentic text of all the agreements reached, which are annexed to this document.

The Parties likewise reaffirm their commitment to take all necessary steps to execute the agreements fully. In particular, the Government of El Salvador solemnly undertakes to promote the approval by the current legislature of the constitutional reforms agreed to by the Parties in this round of negotiations. Matters relating to the ratification of these reforms shall be considered in the framework of the ongoing negotiations, under the timetable for the implementation of future agreements.

The Parties undertake to pursue the negotiations on an intensive basis, continuing the discussion of the list of issues agreed upon in the Caracas Agenda, with a view to reaching, as a matter of priority, a political agreement on the armed forces and the necessary agreements for the cessation of the armed conflict under United Nations supervision.

These negotiations will require careful additional preparation based on the important work done in recent months and, more especially, in recent weeks. Such preparation is an integral part of the negotiating process and the latter process shall not, therefore, be considered suspended. A brief direct meeting of an organizational nature is in fact planned for early May and direct negotiations are scheduled to resume in the latter half of the month. As usual, neither the exact dates nor the venue shall be announced in advance.

VI. UNILATERAL DECLARATION BY FMLN

FMLN stated for the record that the wording of article 211, where the armed forces are described as a "permanent" institution, is incompatible with its position on the matter. It made it clear that it considers there to be certain constitutional reforms still awaiting negotiation, including demilitarization, article 105 on the limit on rural land ownership and the need to open up the mechanism for reform of the Constitution, either by amending article 248 or by other procedures such as popular referendum. FMLN maintains its position on all these points.

Mexico City, 27 April 1991

Representing the Government of El Salvador:	Representing the Frente Farabundo Martí para la Liberación Nacional:
Mr. Oscar Santamaría	Commander Schafik Handal
Colonel Juan Martínez Varela	Commander Joaquín Villalobos
Colonel Mauricio Ernesto Vargas	Salvador Samayoa
Mr. David Escobar Galindo	Ana Guadalupe Martínez
Mr. Abelardo Torres	
Mr. Rafael Hernán Contreras	

Alvaro de Soto
Representative of the Secretary-General
of the United Nations

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR:

I. Whereas it is the firm intention and duty of this Assembly to contribute to the restoration of peace, to national reconciliation and to the reunification of Salvadorian society, in accordance with the common will of our people,

II. Whereas the peace negotiations being conducted pursuant to the Geneva Agreement of 4 April 1990 and the Caracas Agenda of 21 May 1990 call for a number of constitutional reforms in support of the political agreements emanating therefrom,

In exercise of the powers conferred upon it by article 248 of the current Political Constitution,

Hereby adopts the following constitutional reform:

Article 1. Article 30 is hereby repealed.

Article 2. In article 77, the words "Central Board of Elections" are hereby replaced by the words "Supreme Electoral Tribunal" and a new paragraph is hereby added, to read as follows:

"Legally registered political parties shall have the right to monitor the compilation, organization, publication and updating of the electoral roll."

Article 3. Article 131 (37) is hereby amended to read as follows:

"To recommend to the Office of the President of the Republic the dismissal of Ministers of State, or to the relevant bodies the dismissal of officials of autonomous official institutions, whenever it deems appropriate on the basis of an investigation by its special commissions or an appeal, as the case may be. The Assembly's decision shall be binding with regard to heads of public security or State intelligence when the cause is serious human rights violations."

Article 4. Article 162 is hereby amended to read as follows:

"Article 162. The President of the Republic shall be responsible for appointing, dismissing, accepting the resignation of and granting leave to Ministers and Deputy Ministers of State and heads of public security and State intelligence."

Article 5. Article 163 is hereby amended to read as follows:

"Article 163. Decrees, decisions, orders and rulings of the President of the Republic must be countersigned and transmitted by Ministers, or by Deputy Ministers where appropriate, in their respective departments. Failure to comply with these requirements shall render such instruments null and void."

Article 6. Paragraphs (11) and (12) of article 168 are hereby amended, and three new paragraphs numbered (17), (18) and (19) are hereby added, to read as follows:

"(11) To command, organize and maintain the armed forces, confer military ranks and order postings and duties or the discharge of officers, in accordance with the law.

"(12) To use the armed forces to defend the sovereignty of the State and the integrity of its territory. In exceptional cases, where the normal means for the maintenance of domestic peace and public tranquillity and safety have been exhausted, the President of the Republic may use the armed forces for that purpose. Such action by the armed forces shall be limited to the period and extent strictly necessary to restore order and shall cease once that task has been fulfilled. The President of the Republic shall keep the Legislative Assembly informed of such action and the Assembly may, at any time, order the cessation of such exceptional measures. In any event, within two weeks of the termination of such measures, the President of the Republic shall submit to the Legislative Assembly a detailed report on the action taken by the armed forces.

"(17) To command, organize and maintain the National Civil Police to preserve peace, tranquillity, order and public safety in both urban and rural areas, adhering strictly to respect for human rights and under the control of civilian authorities. The National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries.

"(18) To command, organize and maintain the State Intelligence Agency.

"(19) To determine annually a reasonable manpower level for the armed forces and the National Civil Police."

Article 7. A new paragraph is hereby added to article 172, to read as follows:

"The judiciary shall receive an annual allocation from the State budget of no less than 6 per cent of current income."

Article 8. Article 174, second paragraph, is hereby amended to read as follows:

"The Constitutional Division shall comprise five judges appointed for that purpose by the Legislative Assembly. The President of the Constitutional Division shall be appointed by the Legislative Assembly whenever the latter elects judges to the Supreme Court of Justice. The same appointee shall serve as President of the Supreme Court of Justice and of the judiciary."

Article 9. Article 180 is hereby amended to read as follows:

"Article 180. Any person wishing to be a justice of the peace shall, as a minimum, be a Salvadorian citizen, a lawyer, a layman, over 21 years old, and known to be competent and of good character; he must have rights of citizenship and have had them for the three years preceding his appointment. Justices of the peace shall be considered members of the career judicial service.

"In cases where the National Council of the Judiciary so decides, the duties of justice of the peace may be carried out by a person who is not a lawyer or does not belong to the career judicial service. In such cases, the term of office shall be one year."

Article 10. Paragraph 9 of article 182 is hereby amended to read as follows:

"9. To appoint magistrates and judges of courts of first and second instance and justices of the peace from lists of three candidates submitted by the National Council of the Judiciary; forensic physicians and employees of offices of the Court; and dismiss them, accept their resignation and grant them leave."

Article 11. Article 186 is hereby amended to read as follows:

"Article 186. A career judicial service is hereby established.

"Judges of the Supreme Court of Justice shall be elected by the Legislative Assembly for a term of nine years, with one third of the judges coming up for renewal every three years. Their tenure shall be deemed to be renewed by right unless, at the end of a judge's term of office, the Legislative Assembly decides otherwise or a judge is dismissed for cause, the causes for dismissal having been previously established by law. The affirmative vote of at least two thirds of the elected deputies shall be required for a decision to be taken in each of the above cases.

"Judges of the Supreme Court of Justice shall be elected from a list of candidates drawn up by the National Council of the Judiciary in the manner prescribed by law, half of the names being proposed by the associations representing lawyers in El Salvador; the list shall comprise candidates representative of the main schools of legal thought.

"Magistrates and judges of courts of first and second instance and justices of the peace who are members of the career judicial service shall enjoy security of tenure.

"The law shall afford judges protection so that they can carry out their duties in complete freedom, impartially and free of any influence on the cases that come before them; it shall also afford them the means guaranteeing them fair remuneration and a standard of living commensurate with the level of their responsibilities.

"The law shall regulate the requirements and procedures for admission to the career judicial service, promotions, transfers, disciplinary measures against members of the service, and other matters relating to the service."

Article 12. Article 188 is hereby amended to read as follows:

"Article 188. No person serving as a magistrate or judge may practise as a lawyer or notary or serve as an employee of the other organs of State, except as a teacher or a diplomat on temporary assignment."

Article 13. Article 191 is hereby amended to read as follows:

"Article 191. The function of public prosecutor shall be performed by the Attorney-General of the Republic, the Chief State Counsel, the National Counsel for the Defence of Human Rights and such other officials as may be prescribed by law."

Article 14. Article 192 is hereby amended to read as follows:

"Article 192. The Attorney-General of the Republic, the Chief State Counsel and the National Counsel for the Defence of Human Rights shall be elected by the Legislative Assembly, by a qualified majority of two thirds of the elected deputies. Their term of office shall be three years and they may be re-elected.

"The qualifications required for the post of Attorney-General of the Republic or Chief State Counsel shall be the same as those for judges of courts of second instance.

"The requirements to fill the post of National Counsel for the Defence of Human Rights shall be prescribed by law."

Article 15. In Article 193, a new paragraph (3) is hereby added; paragraphs (2) and (3) are hereby amended, the latter becoming paragraph (4); and paragraph (9) is hereby repealed. The new paragraphs read as follows:

"2. To institute judicial proceedings, proprio motu or at the request of a party, in defence of the legal order.

"3. To direct the investigation of the offence, particularly of any criminal acts that are liable to criminal prosecution. To that end, under the direction of the Office of the Attorney-General of the Republic, there shall be established a Criminal Investigation Agency whose mandate shall be prescribed by law. This shall not limit the independence of the judge in investigating matters submitted to him. The Criminal Investigation Agency shall take without delay any action that a judge may request of it for the purposes stated.

"4. To institute criminal proceedings proprio motu or at the request of a party."

Article 16. A new article is hereby added after article 194, to read as follows:

"Article 194. The National Counsel for the Defence of Human Rights shall be responsible for promoting human rights and making sure that they are respected. He may have permanent departmental and local representatives.

"The functions of the National Counsel shall be:

1. To make sure that human rights are respected and guaranteed.

2. To investigate, either proprio motu or on the basis of a complaint he has received, cases of human rights violations.

3. To assist alleged victims of human rights violations.

4. To promote judicial or administrative remedies for the protection of human rights.

5. To monitor the situation of persons deprived of their liberty. He shall be notified of all arrests and shall make sure that the legal limits on administrative detention are respected.

6. To carry out inspections, where he deems necessary, in order to ensure respect for human rights.

7. To supervise the conduct of the administration towards citizens.

8. To propose to the organs of State reforms for promoting.human rights.

9. To give opinions on proposed legislation that would affect the exercise of human rights.

10. To promote and propose such measures as he deems necessary to prevent human rights violations.

11. To formulate conclusions and recommendations, either publicly or in private.

12. To prepare and issue reports.

13. To develop a permanent programme of activities to promote a knowledge of, and respect for, human rights.

14. Such other functions as may be assigned to him by the Constitution or the law."

Article 17. The heading of chapter VII of title VI is hereby amended to read:

"CHAPTER VII

SUPREME ELECTORAL TRIBUNAL"

Article 18. Article 208 is hereby amended to read as follows:

"Article 208. The Supreme Electoral Tribunal shall be the highest administrative authority and jurisdiction with respect to electoral matters. Its decisions shall not be subject to appeal, other than appeals to the Tribunal itself for a review, in the cases established by the law, and appeals provided for in this Constitution against violations hereof.

"The composition of the Supreme Electoral Tribunal shall be determined by law, making sure that no party or coalition of parties predominates in it. Likewise, appropriate provision shall be made for the Supreme Electoral Tribunal to include members without any party affiliation, elected by a two-thirds majority of the deputies elected to the Legislative Assembly."

Article 19. Article 209 is hereby amended to read as follows:

"Article 209. The agencies necessary for collecting, counting and checking ballots and for other activities connected with the exercise of suffrage shall be established by law, making sure that no party or coalition of parties predominates in them. Contending political parties shall have the right to monitor the entire electoral process."

Article 20. Article 211 is hereby amended to read as follows:

"Article 211. The armed forces are a permanent institution in the service of the nation. They shall be obedient, professional, apolitical and non-deliberative."

Article 21. Article 212 is hereby amended to read as follows:

"Article 212. The mission of the armed forces shall be to defend the sovereignty of the State and the integrity of its territory. In exceptional cases, the President of the Republic may use the armed forces to maintain domestic peace, in accordance with the provisions of this Constitution.

"The main organs of government referred to in article 86 may use the armed forces to enforce the provisions which they have adopted, within their respective spheres of competence under this Constitution, to ensure compliance with the Constitution.

"The armed forces shall cooperate in public works assigned to them by the executive branch and shall assist the public in cases of national disaster."

Article 22. Article 213 is hereby amended to read as follows:

"Article 213. The armed forces shall form part of the executive branch and shall be subject to the authority of the President of the Republic in his capacity as Commander-in-Chief. The structure, legal regime, doctrine, composition and functioning of the armed forces shall be defined by law, by regulation and by special provisions adopted by the President of the Republic."

Article 23. Article 216 is hereby amended to read as follows:

"Article 216. Military jurisdiction is hereby established. For the trial of purely military offences and misdemeanours, there shall be special procedures and courts as provided by law. Military jurisdiction, as an exception to the unity of the system of justice, shall be limited to the trial of purely military offences and misdemeanours, understood to be those affecting only a strictly military legal interest.

"Members of the armed forces on active duty shall be subject to military jurisdiction in respect of purely military offences and misdemeanours."

Article 24. Article 217 is hereby amended to read as follows:

"Article 217. The manufacture, import, export, trading, possession and bearing of weapons, ammunition, explosives and similar articles shall be permitted only with the authorization and under the direct supervision of the executive branch in the defence area.

"This matter shall be regulated by a special law."

TRANSITIONAL PROVISIONS

FIRST: The National Counsel for the Defence of Human Rights whose post is created by this Decree shall be elected within 90 days following ratification of the constitutional reform by the Legislative Assembly whose term begins on 1 May 1991.

SECOND: The secondary legislation on electoral matters shall be amended within 90 days following ratification of the constitutional reform by the Legislative Assembly whose term begins on 1 May 1991. The new Supreme Electoral Tribunal shall be appointed within 30 days following approval of that legislative reform.

THIRD: For the purpose of implementing the provisions of the fourth paragraph of article 172, budgetary resources shall be allocated gradually and proportionally until the full amount is covered, within a period of no more than four years from the date of entry into force of this Decree.

POLITICAL AGREEMENTS ELABORATING ON THE CONSTITUTIONAL REFORM

With a view to elaborating on some of the aspects which the agreed constitutional reform refers to secondary legislation, the Parties have agreed to the following:

A. JUDICIAL SYSTEM

(a) Supreme Court of Justice

For the purposes of the appointment of judges to the Supreme Court of Justice as envisaged in the constitutional reform, the National Council of the Judiciary shall keep a list of 60 candidates representative of the main schools of legal thought, which shall be renewed after each election of judges. Thirty of the candidates shall be nominated by the lawyers associations of the different regions of the country.

(b) National Council of the Judiciary

Agreement has been reached to restructure the National Council of the Judiciary as follows:

1. The composition of the National Council of the Judiciary shall be such as to guarantee its independence from the organs of State and from political parties, and to ensure as far as possible that its membership includes not only judges but also representatives of sectors of society not directly connected with the administration of justice. The act regulating the National Council of the Judiciary shall be amended to bring it into line with the provisions of this Agreement within 90 days following ratification of the constitutional reform by the Legislative Assembly whose term begins on 1 May 1991. A new National Council of the Judiciary shall be elected within 90 days following approval of that legislative reform.

2. The National Council of the Judiciary shall be responsible for organizing and operating the Judicial Training School, whose purpose shall be to ensure a steady improvement in the professional training of judges and other judicial officials and of members of the Office of the Attorney-General of the Republic; to investigate the country's judicial problems and promote solutions thereto; and to foster greater bonds of solidarity among members of the judiciary and a coherent overall vision of the function of the judiciary in a democratic State.

(c) Career judicial service

The secondary legislation on the career judicial service shall satisfy the following requirements:

1. The secondary legislation shall contain provisions to ensure that admission to the career judicial service is based on mechanisms guaranteeing

objective selection, equal opportunities for all candidates and the selection of the best-qualified candidates. Such mechanisms shall include competitive examinations and attendance at the Judicial Training School.

2. Candidates shall be admitted to the career judicial service only if they fulfil the admission requirements established by law.

B. ELECTORAL SYSTEM

1. The electoral roll shall be compiled in such a way that the lists of citizens eligible to vote are published at least 20 days before the date of the election. A simple and expeditious procedure shall be established for making legitimate corrections requested by any interested party.

2. Within 60 days after the establishment of the new Supreme Electoral Tribunal, a Special Commission presided over by the Tribunal and composed of representatives of all legally registered parties and, possibly, independent experts shall be established to prepare a comprehensive proposal for reform of the electoral system, to be completed and submitted to the Legislative Assembly within 120 days of the Commission's establishment. The Special Commission shall in any case be set up at least two years before the next legislative elections, and the Assembly shall vote on the proposed reforms at least one year before the date of those elections.

C. ARMED FORCES

The political agreements on the armed forces are being referred for consideration under the corresponding item of the Caracas Agenda. Nevertheless, the Parties agree that those agreements shall include the following points:

1. The professional training of members of the defence and public security forces shall emphasize the pre-eminence of human dignity and democratic values, respect for human rights and the subordination of those forces to the constitutional authorities.

2. The secondary legislation on military jurisdiction shall be amended, where necessary, to ensure that under no circumstances shall any offences whose victims are civilians or include civilians be deemed to be purely military offences or misdemeanours and, likewise, that civilians shall not be subject to military jurisdiction under any circumstances, except in the case of military offences committed in connection with an international armed conflict involving El Salvador.

COMMISSION ON THE TRUTH

The Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (hereinafter referred to as "the Parties"),

Reaffirming their intention to contribute to the reconciliation of Salvadorian society;

Recognizing the need to clear up without delay those exceptionally important acts of violence whose characteristics and impact, and the social unrest to which they gave rise, urgently require that the complete truth be made known and that the resolve and means to establish the truth be strengthened;

Considering that, although the need to put an end to impunity was raised in the discussion on the item on the armed forces of the Agenda for the negotiations adopted at Caracas on 21 May 1990, the means of investigation which the Parties themselves have been prepared to set up are addressing situations whose complexity warrants independent treatment;

Agreeing on the advisability of fulfilling that task through a procedure which is both reliable and expeditious and may yield results in the short term, without prejudice to the obligations incumbent on the Salvadorian courts to solve such cases and impose the appropriate penalties on the culprits;

Have arrived at the following political agreement:

1. There is hereby established a Commission on the Truth (hereinafter referred to as "the Commission"). The Commission shall be composed of three individuals appointed by the Secretary-General of the United Nations after consultation with the Parties. The Commission shall elect its Chairman.

FUNCTIONS

2. The Commission shall have the task of investigating serious acts of violence that have occurred since 1980 and whose impact on society urgently demands that the public should know the truth. The Commission shall take into account:

(a) The exceptional importance that may be attached to the acts to be investigated, their characteristics and impact, and the social unrest to which they gave rise; and

(b) The need to create confidence in the positive changes which the peace process is promoting and to assist the transition to national reconciliation.

3. The mandate of the Commission shall include recommending the legal, political or administrative measures which can be inferred from the results of

the investigation. Such recommendations may include measures to prevent the repetition of such acts, and initiatives to promote national reconciliation.

4. The Commission shall endeavour to adopt its decisions unanimously. However, if this is not possible, a vote by the majority of its members shall suffice.

5. The Commission shall not function in the manner of a judicial body.

6. If the Commission believes that any case brought to its attention does not meet the criteria set forth in paragraph 2 of this agreement, it may refer the case to the Attorney-General of the Republic, should it deem appropriate, for handling through the judicial channel.

POWERS

7. The Commission shall have broad powers to organize its work and its functioning. Its activities shall be conducted on a confidential basis.

8. For the purposes of the investigation, the Commission shall have the power to:

(a) Gather, by the means it deems appropriate, any information it considers relevant. The Commission shall be completely free to use whatever sources of information it deems useful and reliable. It shall receive such information within the period of time and in the manner which it determines.

(b) Interview, freely and in private, any individuals, groups or members of organizations or institutions.

(c) Visit any establishment or place freely without giving prior notice.

(d) Carry out any other measures or inquiries which it considers useful to the performance of its mandate, including requesting reports, records or documents from the Parties or any other information from State authorities and departments.

UNDERTAKING BY THE PARTIES

9. The Parties undertake to extend to the Commission whatever cooperation it requests of them in order to gain access to sources of information available to them.

10. The Parties undertake to carry out the Commision's recommendations.

REPORT

11. The Commission shall submit a final report, with its conclusions and recommendations, within a period of six months after its establishment.

12. The Commission shall transmit its report to the Parties and to the Secretary-General of the United Nations, who shall make it public and shall take the decisions or initiatives that he deems appropriate.

13. Once the report has been handed over, the Commission's mandate shall be considered terminated and the Commission shall be dissolved.

14. The provisions of this agreement shall not prevent the normal investigation of any situation or case, whether or not the Commission has investigated it, nor the application of the relevant legal provisions to any act that is contrary to law.